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## Pesticides & Toxic Substances Law News for April 9, 2018

**Bloomberg  
Environment**

Environment & Energy

### Highlights

#### LEADING THE NEWS

##### [Conservatives Ask Pruitt to Push Streamlined Environmental Permits](#)

By Stephen Lee

A coalition of conservative groups is calling on EPA Administrator Scott Pruitt to stick to the Trump administration's promise to streamline environmental permitting, and it's using Alaska's Pebble Mine as its poster child.

##### [Lobbyist Tied to Pruitt's Condo Had Roster of Clients Facing EPA](#)

By Jennifer A. Dlouhy and Jennifer Jacobs

The energy lobbyist whose wife leased a bedroom to EPA Administrator Scott Pruitt last year had a roster of clients with business before the EPA, handing fodder to critics who are demanding that Pruitt be fired.

#### TODAY'S NEWS

##### [April 12 Hearing Eyed for Pompeo, Trump Pick for Secretary of State](#)

By Dean Scott

Mike Pompeo, President Donald Trump's Secretary of State nominee, is expected to get his much-anticipated day on Capitol Hill April 12, according to Republican and Democratic aides.

##### [From Forbes to Tea Party, Allies on Right Rally for Pruitt](#)

By Jennifer A. Dlouhy and Ari Natter

Conservative stars are coming out in force to save the job of embattled Environmental Protection Agency Administrator Scott Pruitt, a zealous advocate of their small-government movement who is engulfed by allegations of ethical lapses.

##### [EPA Civil Rights Office Avoids Overhaul, but Must Be Timely](#)

By David Schultz

Environmentalists have long criticized the EPA's civil rights office as a black hole where complaints get submitted and then disappear.

#### THURSDAY NIGHT WRAPUP

No new stories today.



### Redefining EPA

Overhauling an agency and its mission

<https://insideepa.com/agency-at-a-crossroads>

### TSCA Tracker

<http://insideepa.com/specials/tsca-tracker>

**Latest News**

### **EPA Debates TSCA's Reach To Address Chemicals' Already Regulated Uses**

Leaders in EPA's toxics office are debating whether their upcoming assessments of the first 10 existing chemicals slated for review under the Toxic Substances Control Act (TSCA) should address the substances' other regulated uses or whether to remove those overlapping uses from the scope of the TSCA analyses.

### **EPA Cites Dozens Of Past Rule Delays To Justify Postponing RMP Update**

EPA is touting a list of more than two dozen federal rules from 1983 to 2013 in which agencies have delayed existing regulations while weighing revisions to those policies, in response to an appellate court order to provide the list in a suit testing EPA's delay of an Obama-era facility safety rule while the agency reconsiders the regulation.

#### **Daily Feed**

### **EPA faces suit over alleged effort to discredit former scientist**

A high-profile former EPA scientist says the agency may have violated her privacy as it allegedly sought to discredit her when she retired and publicly criticized the Trump administration's environmental policies.

### **Top Pruitt aide Dravis resigns amid swirl of negative coverage**

The move is reportedly "unrelated" to recent negative headlines over Pruitt's alleged ethical lapses.

### **Ewire: Pruitt faces grim headlines in wake of ethics defense**

In today's Ewire: The White House spokeswoman says "the president is not" happy about the EPA chief's controversial past lease of a condo linked to an energy lobbyist.

### **EPA prioritizes lead risk reduction for next WIFIA round**

Reducing risks from drinking water and replacing aging water infrastructure is the main focus for EPA WIFIA funding in 2018.

Greenwire



AN E&E NEWS PUBLICATION

## **EPA**

### **'It has been a breathtaking week'**

**Kevin Bogardus**, E&E News reporter Published: Friday, April 6, 2018



U.S. EPA Administrator Scott Pruitt has been hounded by allegations of ethical missteps this week. Andrew Harnik/Associated Press

Allegations of ethical missteps have piled up for U.S. EPA Administrator Scott Pruitt as he campaigned to keep his job this week.

Questions have swirled about whether Pruitt will resign or be fired by President Trump after fresh charges of exorbitant spending and misuse of his Cabinet-level position have mounted almost by the hour. *The New York Times* **reported** yesterday a litany of Pruitt spending proposals — \$70,000 to replace two desks, a \$100,000-per-month charter jet agreement, a bulletproof sport utility vehicle, first-class travel and expanded security — that ran into objections from top EPA officials, who were then reassigned or demoted.

Asked for a response, EPA spokesman Jahan Wilcox noted that some of the proposals never came to fruition. He also said the agency disputed the allegations' truthfulness and cast doubt on the senior employees who raised questions about Pruitt's spending requests.

"This is a group of disgruntled employees who have either been dismissed or reassigned," Wilcox said.

The EPA chief has had his own missteps with the media this week.

In a Fox News interview, he pushed back on reports that he authorized pay raises for two aides under a unique hiring provision under the Safe Drinking Water Act despite White House wishes that he not do so. *The Washington Post* later **reported** that Pruitt had in fact endorsed the pay raise idea, although he hadn't implemented it himself.

Wilcox said Pruitt doesn't know the details of staff salary nor does he make those kinds of personnel actions.

"It was entirely true what he said. He was not aware the raises had transpired nor the means by which they transpired," Wilcox said.

Policy chief Samantha Dravis, a longtime associate of Pruitt's who was one of his closest aides at EPA, has already resigned. His chief of staff, Ryan Jackson, has debated leaving the agency, too.

Wilcox said Jackson is committed to advancing Trump's agenda of "regulatory certainty and environmental stewardship" and continues to do so under Pruitt.

## 'We're shaking our heads'



Signs mocking U.S. EPA Administrator Scott Pruitt's rental of a condo from the wife of a lobbyist whose firm's clients have lobbied the agency were seen in neighborhoods across Washington, D.C., this morning. Camille von Kaenel/E&E News

Asked what the mood was like in EPA headquarters, one employee laughed.

"We're shaking our heads," the employee said. "I was staying up late last night watching the news. ... It has been a breathtaking week."

The employee — who served under Anne Gorsuch Burford, who resigned in disgrace — said the time under President Reagan's first EPA administrator was still tougher for EPA workers compared to the Pruitt era.

"It was worse under that, but this is the worst since then," said the employee.

Bob Sussman, a former deputy EPA administrator during the Clinton administration, drew comparisons to Gorsuch Burford when asked about Pruitt's tenure so far.

"We have a chaotic and extremely alarming situation at EPA. I think the institutional process at the agency is in meltdown," said Sussman, also a former senior policy adviser to EPA Administrator Lisa Jackson.

"I think EPA is struggling to keep employees on board and maintain public confidence," he said.

Pruitt's ethical troubles went into high gear beginning last week after there were reports of him leasing a Capitol Hill condo linked to a lobbyist whose firm reported lobbying EPA.

Posters of Pruitt popped up in Washington this morning, spotted by pedestrians and making their way onto social media. "Live luxuriously for cheap — just like Scott!" the posters say, with a picture of Pruitt. Also included are tear-off slips with the EPA press office's phone number.

The lobbyist tied to the condo — Steven Hart, chairman and CEO of Williams & Jensen PLLC — issued a new statement today. He rejected suggestions that his firm's clients had greater influence with EPA, and he also apologized to his wife, Vicki Hart, who co-owns the condo.

"As I have stated previously, the condominium is not owned by Williams & Jensen, its partners, or any other employees of the firm, and any suggestion that Administrator Pruitt's short-term rental of one of its bedrooms in 2017 resulted in undue influence for the firm or its clients with business before the EPA is simply false," Hart said.

"Finally, I apologize to my wife, Vicki, whose fantastic career is being maligned unnecessarily," he said.

Pruitt has pointed to a March 30 ethics [memo](#), issued by career ethics officials, as clearance for his condo lease. But those same officials have now said they didn't have all of the relevant information when deciding the issue, resulting in a new clarifying memo stating that Pruitt's actions outside the lease were never considered, but rather just the lease itself.

Justina Fugh, EPA's senior counsel for ethics, was the first official to issue a statement on Pruitt's lease last week, calling it "a routine business transaction," followed later by the March 30 memo signed by her superior, Kevin Minoli, the agency's designated ethics official. In a statement to E&E News, Fugh said she was called in a movie theater the night the condo news broke.

"The federal ethics regulations provide that employees, in seeking ethics advice, make 'full disclosure of all relevant circumstances,'" Fugh said.

"The advice I gave on Thursday at the movie theater was based on specific facts provided to me," she said. "I am troubled to learn that those facts were not accurate. I was too credulous at the time."

Requests from Democratic lawmakers to investigate Pruitt's condo lease and other ethics allegations have stacked up at the EPA Office of Inspector General, which already has open audits of Pruitt's travel and security spending. A spokesman for the agency's internal watchdog confirmed to E&E News that it had received two new letters from Democrats yesterday.

"Both congressional requests are currently under review by the OIG," said EPA IG spokesman Jeff Lagda.

## Trump offers support

President Trump took an unusual trip back to the press cabin of Air Force One yesterday. Asked for his thoughts on Pruitt's troubles, Trump offered support for the EPA chief.

"He's been very courageous. Hasn't been easy, but I think he's done an absolutely fantastic job. I think he'll be fine," Trump said.

Pruitt's condo lease has already come under White House review. The president added that he would look at the reports about Pruitt closely and said, "I'll make that determination." He also called Pruitt's Fox News appearance "an interesting interview."

Pruitt's conservative supporters have mounted a public campaign to keep Pruitt in office. They have argued that the EPA chief is Trump's most effective member of his Cabinet, leading to attacks from liberals who want to see him gone (*see related story*).

Groups like [FreedomWorks](#) and [Tea Party Patriots](#) have issued op-eds and press statements backing Pruitt and his deregulatory work at EPA.

E&E News also obtained a list of circulating [talking points](#), touting the administrator's deregulatory accomplishments. They list a number of actions the administrator has taken to roll back Obama-era environmental regulations.

EPA press aides have gone on social media to keep up a drumbeat of support for Pruitt. They have tweeted out backing from conservative talk radio star [Rush Limbaugh](#) and columnists like [Kimberley Strassel](#) of *The Wall Street Journal*.

Meanwhile, Pruitt was in Kentucky yesterday for a meeting with state air regulators, as the press was notified that evening after the fact in an agency press release. The administrator was touting his agenda of "regulatory reform" at EPA — an agenda that Pruitt's supporters are telling Trump is why the president needs to keep his EPA chief.

EPA press officials didn't respond to a question from E&E News on where Pruitt was today.

Reporter Hannah Northey contributed.

## POLITICS

### As Trump praises EPA chief, Pruitt allies circle wagons

[Hannah Northey](#) and [George Cahlink](#), E&E News reporters



Published: Friday, April 6, 2018

U.S. EPA Administrator Scott Pruitt's allies say he hasn't hit a "tipping point" yet. Gage Skidmore/Flickr

Allies of embattled U.S. EPA Administrator Scott Pruitt said today his job is safe despite mounting ethics controversies.

Conservative think tanks are ramping up campaigns to save the former Oklahoma attorney general and shrugging off the silence of Republican congressional leaders.

"There's a crescendo right now because folks who don't like him smell blood in the water," said Tom Pyle, president of the nonprofit Institute for Energy Research. He added that Pruitt hasn't hit a "tipping point."

Despite departures from Pruitt's inner circle at EPA and more than a dozen ethics controversies, outreach from the administrator's backers — a circulating letter and calls to the White House and Capitol Hill — appear to be paying off. E&E News also obtained a list of [talking points](#) that is circulating that tout the administrator's deregulatory accomplishments.

President Trump this morning [tweeted](#) that Pruitt is "doing a great job but is TOTALLY under siege," while rejecting reports Pruitt is being considered to run the Department of Justice. Trump also told reporters following a roundtable in West Virginia yesterday that Pruitt is a "good guy."

But conservatives are leaving nothing to chance.

Myron Ebell, an ardent support of Pruitt and director of the Competitive Enterprise Institute's Center for Energy and Environment, said he's mobilizing his forces. While he welcomes Trump's support, he acknowledged the president is unpredictable.

Trump famously tweeted his support for former Secretary of State Rex Tillerson, for example, before firing him on Twitter.

"It's always hard to tell about tipping points until after you've tipped," said Ebell, who also led the Trump EPA transition team. "I don't think Pruitt is out of danger, but I don't think he's started to be pushed over the edge, either. It's still all up in the air."

When asked about the sparse Republican support for Pruitt on Capitol Hill, Ebell said that it was a matter of the congressional recess and that lawmakers may be voicing support in direct phone calls to the White House.

"I expect it'll get a lot louder next week," he said.

Congressional Republicans have had little to say about Pruitt amid the string of disclosures swirling around him this week. Senate Majority Leader Mitch McConnell (R-Ky.) and House Speaker Paul Ryan (R-Wis.) have made no public statements on Pruitt.

Both leaders have over the past year worked closely with the EPA chief to push a series of rollbacks of Obama-era regulatory policies using the Congressional Review Act. They may be betting Pruitt's controversies might have died down by the time Congress returns from a two-week break next week.

McConnell is hardly eager for another election-year confirmation fight with the Senate already needing to approve new picks to lead the State and Veterans Affairs departments and CIA in coming months. He also knows any potential EPA pick would almost certainly have to be less conservative than Pruitt to advance in the Senate, which only narrowly approved the former Oklahoma attorney general last year.

Pruitt in part is benefiting from Congress being on recess, a time when few lawmakers have been in Washington to weigh in on the ethics flap.

The only Republicans to call for Pruitt's ouster so far are Reps. Carlos Curbelo and Ileana Ros-Lehtinen, both moderates from the Miami area whose districts face rising sea levels. They would benefit politically from opposing Pruitt, who has been openly skeptical about climate science. Joining the group yesterday was Republican Elise Stefanik of New York.

The Senate, however, won't be able to sidestep EPA personnel issues next week.

The chamber is set for a procedural vote on the nomination of Andrew Wheeler for deputy EPA administrator, the agency's No. 2 position. Senators are certain to question whether Wheeler, a former Senate aide, would be qualified to step in if Pruitt steps down.

## Democrats' response

Today, House Minority Leader Nancy Pelosi (D-Calif.) became the highest-ranking lawmaker to call for Pruitt to resign. She accused him of promoting "corruption, cronyism and incompetence."

A liberal stalwart, Pelosi sought to tie to Pruitt to broader ethics issues facing Cabinet officials and painted GOP lawmakers as failing to stop it or speak out. It's the latest sign that Democrats believe tying congressional Republicans to Trump could help them regain the majority in this fall's midterm elections and suggests that the GOP may be unable to remain largely silent on Pruitt.

"Republicans in Congress need to end their complicity and finally take action to hold Pruitt and this administration accountable for their abuses," said Pelosi, who added that the "health of our children" would continue to suffer if Pruitt remained in power and continued to advance an agenda that has given special interests "free rein ... to pollute our communities."

While Pelosi and a number of Democrats are pouncing on Pruitt's controversies to demand more information, the left has been somewhat muted in calling for a resignation.

Neither Senate Minority Leader Chuck Schumer (D-N.Y.) nor top Energy and Commerce Democrat Frank Pallone of New Jersey, two frequent critics of Pruitt, have made similar requests.

Democrats likely see little to gain in partisan calls for him to resign with Pruitt drawing plenty of negative attention on his own with this week's string of disclosures. Indeed, they may prefer a hobbled Pruitt at EPA than a new administrator who they might not be as able to easily target.

House Energy and Commerce Committee Democrats have called for investigations into the latest ethics concerns by the EPA inspector general. They specifically raised concerns about Pruitt's Washington housing and suggested EPA has offered conflicting information about his renting space in an apartment with ties to an energy lobbying firm.

"We have serious concerns that Mr. Pruitt may have misused his position as EPA administrator to improperly enrich himself," the letter sent yesterday said.

And yesterday, Rep. Elijah Cummings of Maryland, the ranking Democrat on the House Oversight and Government Reform Committee, [asked](#) Chairman Trey Gowdy (R-S.C.) to hold a hearing next week with Pruitt and his top aides and to obtain documents relating to a host of serious new allegations against Pruitt and his advisers over the past week.

"Based on the events of the past week, it appears that the leadership at EPA is coming apart at the seams," Cummings wrote. "It is our responsibility on the Oversight Committee to conduct credible, robust oversight in a timely manner that protects the interests of the American taxpayers."

In the upper chamber, Sen. Tom Udall (D-N.M.), the ranking member on the Senate Appropriations Interior-EPA spending panel, announced yesterday he was filing a nonbinding sense of Congress resolution calling for Pruitt to resign. There, however, is no clear path for moving it to the floor in a GOP-controlled Senate.

Adding to the list is a [letter](#) Democratic Sens. Sheldon Whitehouse and Tom Carper, both members of the Environment and Public Works Committee, sent to EPA's inspector general yesterday asking for an investigation of Pruitt's alleged use of the Safe Drinking Water Act to grant aides large pay raises.

Pruitt denied knowing of the raises using the act during an interview on Fox News this week. Such an admission, the senators said, "could indicate a serious breakdown of internal controls on the appropriate use of this authority."

Reporter Kevin Bogardus contributed.



## EPA

### Rule-busting panel's future uncertain after Dravis' exit

Maxine Joselow, E&E News reporter



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Brittany Bolen, U.S. EPA's deputy associate administrator in the Office of Policy, testified before the House Oversight Committee

With a top aide to U.S. EPA Administrator Scott Pruitt headed for the exit, the leadership of the agency's regulatory reform task force remains uncertain. Samantha Dravis, Pruitt's policy chief and one of the most influential players at the agency, is leaving EPA this month to pursue a career in the private sector, according to an administration official ([Climatewire](#), April 5).

Dravis has been at the helm of the agency's regulatory reform task force, which is supposed to be helping EPA implement President Trump's deregulatory agenda.

When Dravis leaves, that responsibility could fall to Brittany Bolen, deputy associate administrator and a member of the regulatory reform task force, an EPA employee told E&E News.

Bolen has played a leading role in regulatory reform at EPA's Office of Policy, and she's expected to lead that office after Dravis' departure, the employee said. But it's unclear who will ultimately fill the slot, and other political aides are already jockeying for the position, the source said.

Ryan Jackson, Pruitt's chief of staff and another member of the regulatory reform task force, is also headed for the exit, according to an administration official ([Greenwire](#), April 5).

Bolen and EPA's press office didn't respond to requests for comment.

#### Lack of transparency

Dravis' tenure as head of the regulatory reform body was marked by frequent complaints from critics about a lack of transparency ([Greenwire](#), Oct. 23, 2017).

Trump established the task forces at federal agencies through an executive order last year. While [Executive Order 13777](#) required the panels to submit regular progress reports to agency heads, no such report has been made public at EPA.

In addition, little to no information has been released about people and groups being consulted or the rules being considered for repeal, revision or replacement.

"If you asked me what the task force has been doing lately, beats me," said Frank O'Donnell, president of Clean Air Watch.

Groups and news organizations, including E&E News and the Natural Resources Defense Council, have sought information about the panel's activities through Freedom of Information Act requests.

John Walke, director of NRDC's Climate and Clean Air program, said in an email, "I do not believe we have received any response to the request."

#### Industry ties

EPA's task force has also come under fire from greens and Democrats over its members' industry ties and perceived conflicts of interest.

Dravis is a former top official at the Republican Attorneys General Association and its affiliated Rule of Law Defense Fund, which helped energy companies sue the government over Obama-era environmental rules, including the Clean Power Plan.

Several prominent Democrats sent a letter to the White House in February expressing concern about the task forces' potential conflicts of interest ([E&E Daily](#), Feb. 8).

"The interests of the American public must be paramount when reviewing the worthiness of regulations, and it is therefore critical that these Task Forces maintain guards against conflicts of interest, especially those in which industry lobbyists seek to overturn environmental and health protections for financial gain," the lawmakers wrote.

Bolen also faced tough questions from Democrats about the EPA task force's industry connections at a hearing last year ([E&E Daily](#), Nov. 30, 2017).

With both Dravis and Jackson out of the picture, the remaining task force members would be Bolen and Byron Brown, deputy chief of staff for policy.

Both Bolen and Brown are former staffers for Sen. Jim Inhofe (R-Okla.), one of Congress' most vocal critics of EPA and climate science.

Reporter Robin Bravender contributed.

## PUBLIC HEALTH

### N.J. jury awards couple \$37M in talcum powder case

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A New Jersey jury gave \$30 million in damages to Stephen Lanzo and \$7 million to his wife, Kendra Lanzo, after he said inhaling talcum powder caused a cancer that affected his lung lining.

It was the first such case to go to trial in New Jersey, home state of Johnson & Johnson, the company that makes baby powder and similar products.

Stephen Lanzo claimed to have used the powder for decades. Johnson & Johnson was ordered to pay 70 percent of the damages, with talcum supplier Imerys Talc paying the remaining 30 percent.

"While we are disappointed with this decision, the jury has further deliberations to conduct in this trial and we will reserve additional comment until the case is fully completed," said Carol Goodrich, a spokeswoman for Johnson & Johnson (Bob D'Angelo, [Atlanta Journal-Constitution](#), April 6). — NB

## TEXAS

### Governor reinstates enviro rules suspended during Harvey

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The office of Texas Republican Gov. Greg Abbott yesterday lifted a suspension of environmental regulations after nearly seven months. The rules were paused as Hurricane Harvey approached.

Just days ago, environmental groups sent a letter to the state Commission on Environmental Quality demanding that the rules take force again.

The *Houston Chronicle* recently published a series on the state's neglect of more than 100 toxic spills following the storm ([Greenwire](#), March 22).

Environmental reporting and record-keeping and liabilities for emissions violations had been suspended since the moratorium.

"The TCEQ now asserts that the suspension is no longer necessary," James Person, assistant general counsel, wrote yesterday. "Based on the TCEQ's assertion and our office's review, the Office of the Governor hereby grants TCEQ's request to terminate the temporary suspension of those rules" (Alex Stuckey, [Houston Chronicle](#), April 6). — NB

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